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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 18 2001
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Valley Mills, Texas)

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MM Docket No. 01-47 /
RM-10063
RM-10119
RM-10120

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

REPLY COMMENTS

Roy E. Henderson ("KBAL"), licensee of Station KBAL-FM, San Saba, Texas and Pecan Bayou Radio ("Pecan Bayou") by their respective counsel, submits these Reply Comments in response to the Public Notice, Report No. 2488, released June 1, 2001 in the above captioned proceeding. As indicated in the Public Notice, KBAL proposes to substitute Channel 237A for Channel 291A at San Saba and modify its license accordingly. Pecan Bayou proposes to allot Channel 291A at Richland Springs, Texas and Channel 285A at Hico, Texas with channel substitutions at Brady and Meridian, Texas. Opposing reply comments were filed by Farris Broadcasting, Inc., licensee of Station KNEL-FM, Brady, Texas and a counterproposal was filed by Teague Broadcasting Company, proposing to allot Channel 237C3 to Teague, Texas. In support of its proposal, KBAL/Pecan Bayou states as follows:

1. The Teague proposal at the coordinates listed on the Public Notice are not in conflict with any portion of the remaining KBAL/Pecan Bayou proposal involving Richland Springs, San Saba, Hico, Meridian and Brady, Texas. In particular, Channel 237C3 at Teague is consistent with

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the substitution of Channel 237A for Channel 291A at San Saba, Texas and with the substitution of Channel 237A for Channel 285A at Meridian, Texas.

2. The attached channel study for Channel 237C3 at Teague indicates a short spacing to a proposal in MM Docket No. 91-58 to add Channel 236C2 to College Station, Texas and with a pending application site for KTSR(FM). The Teague coordinates set forth in the Public Notice have been modified from those specified in the Teague counterproposal presumably to accommodate the Channel 237A proposal at Meridian. However, the attached channel study at the modified coordinates still show short spacings to the Channel 236C2 proposal at College Station and an application site for KTSR. See attached Channel Study. The Commission was presumably aware of these short spacings when it modified the coordinates. The Commission should explain why these listings at College Station do not need to be protected. Otherwise the Teague proposal should not have been accepted. In this regard, Teague Broadcasting Company made no effort to explain these short spacings in its counterproposal. Although MM Docket 91-58 is no longer pending before the Commission, the proceeding was pending at the U.S. Court of Appeals when the Teague proposal was filed. The Commission should not accept a counterproposal that is not technically correct when filed. See e.g., Broken Arrow and Bixby, Oklahoma and Coffeyville, Kansas, 3 FCC Rcd 6507 (MM Bureau 1988).¹

3. The KBAL/Pecan Bayou proposal will provide a first local service to two new communities - - Richland Springs, Texas population 344 (1990 census) and Hico, Texas, population 1,342 (1990 census). The public interest will be served by these proposals along with the substitutions at San Saba, Meridian and Brady, Texas.

1. The San Saba and Meridian proposals to change to Channel 237 are both consistent with all data base entries for College Station.

4. The Brady licensee objects for two reasons: (1) it believes that the Commission should require that \$250,000 be placed in escrow to ensure that reimbursement will take place and (2) that the Brady channel change will eliminate a possible upgrade that KNEL desires to make on its current channel sometime in the future. Neither of these arguments are supported by technical showing (for the upgrade) or an itemization of expenses (for the reimbursement). No case law is cited to justify such an extraordinary request.

5. In fact, the Commission has stated that even an actual upgrade proposal (much less a speculative possibility) is not grounds to deprive a community of a first local service. See e.g., Benton, Arkansas et. al, 2 FCC Rcd 1963 at ¶ 25 (1987). As for placing money in escrow, the Commission has consistently turned down similar requests. See Ada, Newcastle and Watonga, Oklahoma, 11 FCC Rcd 16896 (1996). Here the Commission should expeditiously issue an Order to Show Cause to the Brady licensee to satisfy that formality now that the licensee has already voiced its objections.


6. Finally, KBAL/Pecan Bayou have already argued in their counterproposal as to why its proposal should be favored over a first local service to Valley Mills. Hico and Richland Springs will receive first local services and their combined 1990 U.S. Census population (1,686) is larger than Valley Mills (population 1,085). In fact, Hico's population (1,342) alone is larger than Valley Mills. See e.g., Good Hope and Bostwick, Georgia, 6 FCC Rcd 5796 (1991); Marks and Woodville, Florida, 12 FCC Rcd 11957 (1997).

7. Accordingly, the Commission should adopt the KBAL/Pecan Bayou proposal as set forth in Option II of its counterproposal.

Respectfully submitted,

ROY E. RENDERSO

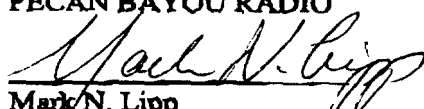
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June 18, 2001

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FCC REFERENCE FOR CH 237C3 AT TEAGUE
DIFFERENT FOR ORIGINAL PETITIONER REFERENCE

REFERENCE	CLASS C3	DISPLAY DATES
31 47 33 N		DATA 05-23-01
96 12 39 W	Current rules spacings	SEARCH 06-16-01
----- CHANNEL 237 - 95.3 MHz -----		

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
RADD	237C3	Teague	TX	0.0	0.00	153.0	-153.00 *
KCKR	238C	Waco	TX	251.8	96.17	176.0	-79.83 *
RADD	237C2	Valley Mills	TX	268.0	145.18	177.0	-31.82 *
RADD	236C2	College Station	TX	190.3	109.95	117.0	-7.05 *
KTSR.A	236C2	College Station	TX	187.9	115.76	117.0	-1.24 *
RADD	237A	Meridian	TX	278.7	141.51	142.0	-0.49 *
KTSR.A	236C2	College Station	TX	189.2	116.53	117.0	-0.47 *
KAFXFM	238C1	Diboll	TX	107.3	143.72	144.0	-0.28 *
KTSR.C	236C2	College Station	TX	192.0	117.07	117.0	0.07 <
RADD	236C2	Caldwell	TX	192.0	117.43	117.0	0.43 <
RADD	236C2	Caldwell	TX	199.9	118.43	117.0	1.43 <
KFROFM	237C3	Gilmer	TX	53.2	154.96	153.0	1.96 <
KCKL	240A	Malakoff	TX	29.7	45.22	42.0	3.22
KAFXFM	238C1	Diboll	TX	107.5	155.80	144.0	11.80
ALLO	236C2	Caldwell	TX	194.2	130.67	117.0	13.67
KLTR.A	236C2	Caldwell	TX	194.2	130.67	117.0	13.67
KHYI.A	237C2	Howe	TX	343.8	193.10	177.0	16.10
KLTY	235C	Arlington	TX	321.0	113.70	96.0	17.70
ALLO	237C2	Howe	TX	344.3	198.90	177.0	21.90
KHYI	237C3	Howe	TX	348.5	181.40	153.0	28.40
KCKR	239C2	Waco	TX	251.7	98.34	56.0	42.34
RDEL	236A	Caldwell	TX	197.2	138.94	89.0	49.94

CERTIFICATE OF SERVICE

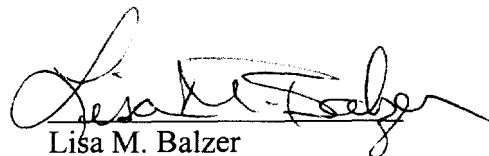
I, Lisa M. Balzer, a secretary in the law firm of Shook, Hardy and Bacon, do hereby certify that I have on this 18th day of June, 2001 caused to be mailed by first class mail, postage prepaid, copies of the foregoing "Reply Comments" to the following:

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